

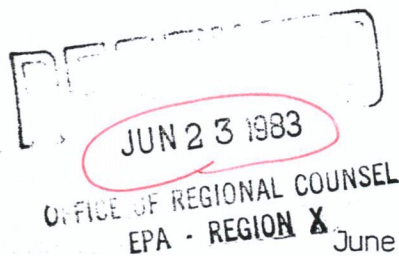
Stephen Navaretta  
Attorney-At-Law

120961  
Telephone (206) 622-6331

6-22-83

3a

13th Floor Seattle Tower  
1218 Third Avenue  
Seattle, Washington 98101



June 22, 1983

Mr. Michael Garcia  
Attorney at Law  
Environmental Protection Agency  
1200 Sixth Avenue  
Seattle, Washington 98101

Re: RCRA Docket X-83-04-02-3008  
(Warren W. Bingham)

Dear Mr. Garcia:

Enclosed please find my notice of appearance on behalf of Warren W. Bingham.

As discussed with you on the telephone we will continue to work toward a mutually appropriate settlement of this matter. Toward this end we will defer entry of a request for hearing pursuant to applicable regulation.

It is my understanding, after our discussion, that insofar as the deferral of entry of a request for hearing inures to the benefit of both parties, a request for hearing effective nunc pro tunc may be entered on behalf of Mr. Bingham should the hearing mechanism become appropriate.

I will be forwarding a formal answer to the complaint without a request for hearing as discussed above.

Please advise me of the appearance and representation, if any, of the other respondents in this matter. Thank you for your courtesies. I look forward to working with you towards a just and equitable disposition of your claims against Mr. Bingham.

Very truly yours,

  
Stephen Navaretta

SN/mjn

Enc.

cc: Warren W. Bingham

USEPA RCRA



3009369

1  
2  
3 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
4 Region 10  
5 1200 Sixth Avenue  
6 Seattle, Washington 98101

7 IN THE MATTER OF: )

8 Environmental Protection Agency )

9 Complainant, )

10 v. )

11 Arrcom Incorporated, )  
12 Drexler Enterprises Incorporated, )  
13 George W. Drexler (Operator), )  
14 Thomas Drexler (Operator), )  
15 W.A. Pickett (Operator), )  
16 Warren Bingham (Owner), )

17 Respondents. )

RCRA Docket X-83-04-02-3008

NOTICE OF APPEARANCE

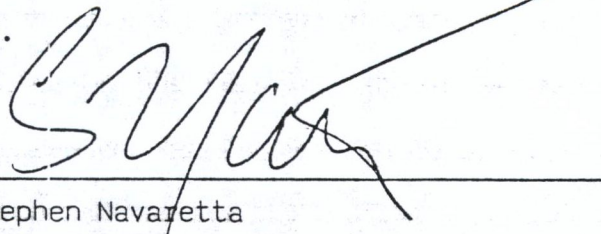
18 To: Environmental Protection Agency; and

19 To: Michael Garcia its attorney of record.

20 YOU and EACH of YOU please take notice that the undersigned appears on  
21 behalf of Warren W. Bingham under a reservation of the right to file a request  
22 for hearing nunc pro tunc and of any jurisdictional or procedural defenses  
23 available to Warren W. Bingham. All papers exclusive of original process may  
24 be served on the undersigned.

25 Dated this 22nd day of June, 1983.

COPY

  
Stephen Navaretta

Attorney for Warren W. Bingham

*Stephen Navaretta*  
Attorney-at-Law  
13th Floor Seattle Tower  
Seattle, Washington 98101  
Telephone (206) 629-6391



*Granger*

RECEIVED  
JUL 5 - 1983

OFFICE OF REGIONAL COUNSEL  
EPA - REGION X  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
Region 10  
1200 Sixth Avenue  
Seattle, Washington 98101

IN THE MATTER OF:

Environmental Protection Agency

Complainant,

v.

Arrcom Incorporated,  
Drexler Enterprises Incorporated,  
George W. Drexler (Operator),  
Thomas Drexler (Operator),  
W.A. Pickett (Operator),  
Warren Bingham (Owner),

Respondents.

RCRA Docket X-83-04-02-3008

ANSWER OF WARREN W. BINGHAM

COPY

Warren W. Bingham answers the complaint filed herein as follows:

I

In response to Finding of Fact 1 this answering respondent denies that he has ever operated the facility alleged in the manner alleged and denies that he has ever transported hazardous wastes. This answering respondent has no knowledge of the activities of the remaining respondents and therefore denies the allegations against them.

II

In response to Finding of Fact 2 this answering respondent denies that he submitted or participated in the submission of an EPA Form 8700-12. This answering respondent has no knowledge of the activities of the remaining respondents and therefore denies the allegations against them.

ANSWER OF WARREN W. BINGHAM - 1

*Stephen Navaretta*  
Attorney-at-Law  
18th Floor Seattle Tower  
Seattle, Washington 98101  
Telephone (206) 622-6331

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

III

In response to Finding of Fact 3 this answering respondent denies he was at any time a generator of hazardous waste. This answering respondent has no knowledge of the activities of the remaining respondents and therefore denies the allegations against them.

IV

In response to Finding of Fact 4 this answering respondent denies that he submitted or participated in submitting an EPA Form 3510-1. This answering respondent has no knowledge of the activities of the remaining respondents and therefore denies the allegations against them.

V

In response to Finding of Fact 5 this answering respondent believes this to be a statement and conclusion of law and accordingly denies same as a statement of fact.

VI

In response to Finding of Fact 6 this answering respondent denies that he is the owner of the subject property. This answering respondent has no knowledge of the activities of the remaining respondents and therefore denies the allegations against them.

VII

In response to Finding of Fact 7 this answering respondent does not have knowledge sufficient upon which to base a reply and therefore denies same, except and save that to his belief operations have ceased at the facility.

VIII

In response to Finding of Fact 8 and 9 this answering respondent does not



1 have knowledge sufficient upon which to base a reply and therefore denies same  
2 except and save any allegation that this answering respondent performed any act  
3 alleged therein said allegations being denied outright.

4 IX

5 In response to the proposed civil penalty this answering respondent alleges  
6 that said proposed penalties are inappropriate and improper.

7 X

8 By way of further answer and defense to the allegations contained in the  
9 complaint this answering respondent alleges:

- 10 a. That he is not the holder or owner of title to the subject  
11 property in such degree or extent as to subject him to any  
12 liability under the Act alleged;
- 13 b. That he could not reasonably be expected to have actual knowl-  
14 edge of the presence of hazardous wastes at the facility al-  
15 leged and of its potential for release and, in fact, had no  
16 such actual knowledge;
- 17 c. The actions of other individuals including the other named re-  
18 spondents and the generators alleged in the complaint were the  
19 sole cause of any release of hazardous waste, deposit of hazard-  
20 ous waste, storage of hazardous waste or any other effect, im-  
21 pact or result of the use of the facility as alleged and this  
22 answering respondent exercised all reasonable due care and pre-  
23 caution to protect against any foreseeable acts and damages caused  
24 by the actions of the afore alleged third parties.
- 25 d. That he has acted at all times in a reasonable manner and in good

1 faith.

- 2 e. That he is in no manner responsible for the actions of the other  
3 named respondents and generators alleged in the complaint and is  
4 therefore not financially responsible for any consequence of  
5 their actions in accordance with principles of common law and  
6 Section 881 of the Restatement of Torts (2d);
- 7 f. That even if he is presently the holder or owner of title to the  
8 subject property in such degree or extent to subject him to li-  
9 ability under the Act alleged, at all times at which the facility  
10 was operated, if it was, in the manner alleged, he was not the  
11 holder of owner of title to the subject property;
- 12 g. That he is entitled to assert and hereby does assert any general  
13 defense, affirmative defense or bar to recovery or suit that may  
14 apply under the Act alleged, the common law, other statutes,  
15 rules of procedure, regulations or any other such matter which  
16 appears to apply upon further investigation and discovery.

17 XI

18 By way of further answer this answering respondent states that all material  
19 facts upon which liability under the Act as alleged may be imposed are placed  
20 in issue.

21 XII

22 By way of further answer this answering respondent reserves and claims  
23 all rights of indemnification, contribution and third party recovery against  
24 any other named respondent, generator or person and any such persons presently  
25 unnamed herein as further investigation and discovery may reveal.



XIII

This answer is submitted without a request for hearing under an express reservation to so request a hearing should one become necessary.

Wherefore having fully answered the complaint this answering respondent requests that judgment be entered in his favor dismissing the complaint or providing such other relief as may be consistent with this pleading.

Dated this 1 day of July, 1983.

  
Stephen Navaretta